



General Assembly

***Substitute Bill No. 863***

*January Session, 2003*

***AN ACT CONCERNING BOATING SAFETY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 15-133 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) The rules prescribed by this section shall apply on all state and  
4 federal waters.

5 (b) No person shall use a vessel in a manner [which] that  
6 unreasonably or unnecessarily interferes with free and proper  
7 navigation. Anchoring under a bridge, in a narrow channel or in a  
8 congested water not designated as an anchorage area [shall be deemed  
9 to be] is such interference, except in case of emergency.

10 (c) No person shall alter, deface or remove any capacity information  
11 label affixed to any vessel.

12 (d) No person shall operate a vessel; [or engage in water skiing  
13 while under the influence of intoxicating liquor or any drug, or both.  
14 For the purposes of this subsection and sections 15-140l or 15-140n, a  
15 person shall be considered to be under the influence of intoxicating  
16 liquor if the ratio of alcohol in the blood of such person at the time of  
17 the alleged offense, as determined by methods prescribed in  
18 subsection (a) of section 15-140r, is ten-hundredths of one per cent or  
19 more of alcohol, by weight. No person arrested for a violation of this

20 subsection shall operate a vessel or engage in water-skiing upon the  
21 waters of this state for a twenty-four-hour period after such arrest] (1)  
22 While under the influence of intoxicating liquor or any drug, or both,  
23 or (2) while such person has an elevated blood alcohol content. For the  
24 purposes of this section and sections 15-140l and 15-140n, as amended  
25 by this act, "elevated blood alcohol content" means: (A) A ratio of  
26 alcohol in the blood of such person that is eight-hundredths of one per  
27 cent or more of alcohol, by weight, or (B) if such person is under  
28 twenty-one years of age, a ratio of alcohol in the blood of such person  
29 that is two-hundredths of one per cent or more of alcohol, by weight.  
30 For purposes of this section and sections 15-140l, 15-140n, 15-140o and  
31 15-140q, as amended by this act, "operate" means that the vessel is  
32 underway or aground and not moored, anchored or docked.

33 (e) In any prosecution for a violation of subdivision (1) of subsection  
34 (d) of this section, evidence concerning the amount of alcohol in the  
35 defendant's blood or urine at the time of the alleged offense, as shown  
36 by a chemical analysis of the defendant's blood, breath or urine,  
37 otherwise admissible under subsection (a) of section 15-140r, shall be  
38 admissible only at the request of the defendant.

39 [(e)] (f) No person shall operate a vessel or engage in any activity  
40 contrary to the regulations [of] adopted by the commissioner.

41 [(f)] (g) No person shall moor a vessel to, obstruct, remove, damage  
42 or destroy any navigation aid or any device used to mark a restricted  
43 area.

44 [(g)] (h) Any person who violates the provisions of subsection (d) of  
45 this section shall: [be fined not less than one hundred dollars nor more  
46 than five hundred dollars. Any person who violates any of the  
47 provisions of subsection (b), (c) or (f) of this section shall be fined not  
48 less than twenty-five dollars nor more than two hundred dollars. Any  
49 person who violates any of the provisions of the provisions of  
50 subsection (e) of this section shall have committed an infraction.] (1)  
51 For conviction of a first violation, (A) be fined not less than five

52 hundred dollars nor more than one thousand dollars, and (B) be (i)  
53 imprisoned not more than six months, forty-eight consecutive hours of  
54 which may not be suspended or reduced in any manner, or (ii)  
55 imprisoned not more than six months, with the execution of such  
56 sentence of imprisonment suspended entirely and a period of  
57 probation imposed requiring as a condition of such probation that  
58 such person perform one hundred hours of community service, as  
59 defined in section 14-227e, and (C) have such person's safe boating  
60 certificate or certificate of personal watercraft operation, if any,  
61 suspended for one year; (2) for conviction of a second violation not  
62 later than ten years after a prior conviction for the same offense, (A) be  
63 finned not less than one thousand dollars nor more than four thousand  
64 dollars, (B) be imprisoned not more than two years, one hundred  
65 twenty consecutive days of which may not be suspended or reduced in  
66 any manner, and sentenced to a period of probation requiring as a  
67 condition of such probation that such person perform one hundred  
68 hours of community service, as defined in section 14-227e, and (C)  
69 have such person's safe boating certificate or certificate of personal  
70 watercraft operation, if any, suspended for three years or until the date  
71 of such person's twenty-first birthday, whichever is longer; and (3) for  
72 conviction of a third and subsequent violation not later than ten years  
73 after a prior conviction for the same offense, (A) be fined not less than  
74 two thousand dollars nor more than eight thousand dollars, (B) be  
75 imprisoned not more than three years, one year of which may not be  
76 suspended or reduced in any manner, and sentenced to a period of  
77 probation requiring as a condition of such probation that such person  
78 perform one hundred hours of community service, as defined in  
79 section 14-227e, and (C) have such person's safe boating certificate or  
80 certificate of personal watercraft operation, if any, permanently  
81 revoked upon such third offense.

82 (i) The suspension of a safe boating certificate or certificate of  
83 personal watercraft operation imposed under subsection (h) of this  
84 section shall take effect immediately upon expiration of any period in  
85 which an appeal of any conviction under subsection (d) of this section

86 may be taken, provided if an appeal is taken, the suspension shall be  
87 stayed during the pendency of such appeal. If the suspension takes  
88 effect, the defendant shall return, not later than the second business  
89 day after the suspension takes effect, by personal delivery or first class  
90 mail, the safe boating certificate or certificate of personal watercraft  
91 operation issued to the defendant.

92 (j) Any person who violates the provisions of subsection (b) of this  
93 section shall be fined not more than two hundred dollars. Any person  
94 who violates the provisions of subsection (c), (f) or (g) of this section  
95 shall be fined not less than one hundred dollars and not more than five  
96 hundred dollars. Any person who violates any of the provisions of  
97 subsection (f) of this section shall have committed an infraction.

98 (k) (1) A record shall be kept by the Superior Court of any  
99 conviction relating to the operation of a vessel. A summary of such  
100 record, with a statement of the number of the operator's safe boating  
101 certificate or certificate of personal watercraft operation shall, not later  
102 than five days after such conviction, forfeiture or any other disposition  
103 or nolle, be transmitted to the commissioner by such court. Each court  
104 shall report each conviction under subsection (d) of this section to the  
105 commissioner. The commissioner shall suspend the safe boating  
106 certificate or certificate of personal watercraft operation of the person  
107 reported as convicted for the period of time required by subsection (h)  
108 of this section.

109 (2) The safe boating certificate or certificate of personal watercraft  
110 operation of a person found guilty under subsection (d) of this section  
111 who is under eighteen years of age shall be suspended by the  
112 commissioner for the period of time set forth in subsection (h) of this  
113 section, or until such person attains the age of eighteen years,  
114 whichever period is longer.

115 Sec. 2. Section 15-140l of the general statutes is repealed and the  
116 following is substituted in lieu thereof (*Effective October 1, 2003*):

117 (a) A person commits the offense of reckless operation of a vessel in

118 the first degree while under the influence when, while under the  
119 influence of intoxicating liquor or any drug, or both, [he] or while such  
120 person has an elevated blood alcohol level content, such person  
121 operates a vessel at such speed or maneuvers a vessel in such a manner  
122 as to result in (1) death or serious physical injury to another person, or  
123 (2) damage to property in excess of [one] two thousand dollars.

124 (b) Any person guilty of reckless operation of a vessel in the first  
125 degree while under the influence shall be fined not less than two  
126 thousand five hundred dollars nor more than [one] five thousand  
127 dollars or imprisoned not more than [one year] two years, or both.

128 Sec. 3. Section 15-140n of the general statutes is repealed and the  
129 following is substituted in lieu thereof (*Effective October 1, 2003*):

130 (a) A person commits the offense of reckless operation of a vessel in  
131 the second degree while under the influence when, while under the  
132 influence of intoxicating liquor or any drug, or both, [he] or while such  
133 person has an elevated blood alcohol level content, such person  
134 operates a vessel at such speed or maneuvers a vessel in such a manner  
135 as to endanger the life, limb or property of another person.

136 (b) Any person guilty of reckless operation of a vessel in the second  
137 degree while under the influence shall be fined not less than [two  
138 hundred fifty] five hundred dollars nor more than [five hundred] one  
139 thousand dollars or imprisoned not more than six months, or both.

140 Sec. 4. Section 15-140o of the general statutes is repealed and the  
141 following is substituted in lieu thereof (*Effective October 1, 2003*):

142 (a) Any peace officer authorized to enforce the provisions of  
143 sections 15-129, 15-133, as amended by this act, 15-133b, 15-133c, 15-  
144 140e, as amended by this act, to 15-140u, inclusive, 15-154 and 15-156  
145 who arrests an operator for a violation of subsection (d) of section 15-  
146 133, as amended by this act, or section 15-140k, 15-140l, as amended by  
147 this act, 15-140m or 15-140n, as amended by this act, may take the  
148 vessel operated in such violation into [his] such peace officer's custody

149 and shall cause the same to be taken to and stored in a suitable place.  
150 There shall be no liability attached to such peace officer for any  
151 damages to such vessel while in [his] such peace officer's custody. All  
152 charges necessarily incurred by such peace officer in the performance  
153 of such duty shall be a lien upon such vessel. The owner or keeper of  
154 any marina or other place where such vessel is stored shall have a lien  
155 upon the same for [his] the storage charges and if such vessel has been  
156 stored for a period of not less than sixty days, such owner or keeper  
157 may sell the same for storage charges owed thereon, provided a notice  
158 of intent to sell shall be sent to the Commissioner of Environmental  
159 Protection, the Commissioner of Motor Vehicles, and the owner of  
160 such vessel, if known, five days before the sale of such vessel. If the  
161 owner is unknown, such sale shall be advertised by such marina  
162 owner or keeper in a newspaper published or having a circulation in  
163 the town where such marina or other place is located three times,  
164 commencing at least five days before the sale. The proceeds of such  
165 sale, after deducting the amount due such marina owner or keeper and  
166 all expenses of the peace officer who placed such vessel in storage,  
167 shall be paid to the owner of such vessel or [his] such owner's legal  
168 representatives, if claimed by [him] such owner or [them] owners at  
169 any time within one year from the date of such sale. If such balance is  
170 not claimed within said period, it shall escheat to the state.

171 (b) Any vessel [being] that is operated by a person who is arrested  
172 for a violation of section 15-140n, [shall] as amended by this act, in  
173 connection with such operation, or for a violation of section 15-140l, as  
174 amended by this act, after being involved in a boating accident, may be  
175 impounded for [twenty-four] a minimum of forty-eight hours after the  
176 arrest. Any vessel involved in a boating accident that results in death,  
177 serious physical injury, a missing person or property damage in excess  
178 of two thousand dollars may be seized for the collection of evidence  
179 and held until the investigation of the boating accident or any related  
180 court proceedings are concluded. Any trailer utilized by the operator  
181 to transport such vessel may also be impounded to facilitate transport  
182 and handling of such vessel.

183 Sec. 5. Section 15-140q of the general statutes is repealed and the  
184 following is substituted in lieu thereof (*Effective October 1, 2003*):

185 (a) Any person who operates a vessel in this state shall be deemed  
186 to have consented to a chemical analysis of such person's blood, breath  
187 or urine, and if such person is a minor, such person's parent or parents  
188 or guardian shall also be deemed to have given their consent for such  
189 an analysis of the minor's blood, breath or urine.

190 [(a)] (b) If any such person, having been placed under arrest for: (1)  
191 [violating] Violating subsection (b) of section 53-206d; [, or for] (2)  
192 operating a vessel upon the waters of this state while under the  
193 influence of intoxicating liquor or any drug, or both; (3) operating a  
194 vessel upon the waters of this state while such person has an elevated  
195 blood alcohol content, and thereafter, after being apprised of [his] such  
196 person's constitutional rights, having been requested to submit to a  
197 blood, breath or urine test at the option of the police officer, having  
198 been afforded a reasonable opportunity to telephone an attorney prior  
199 to the performance of such test and having been informed that such  
200 person's safe boating certificate or certificate of personal watercraft  
201 operation issued by the commissioner as a condition of operating a  
202 vessel shall be suspended in accordance with the provisions of this  
203 section if such person refuses to submit to such test or if such person  
204 submits to such test and the results of such test indicate that such  
205 person has an elevated blood alcohol content and that evidence of any  
206 such refusal shall be admissible in accordance with subsection (d) of  
207 section 15-140r, as amended by this act, and may be used against [him]  
208 such person in any criminal prosecution, refuses to submit to the  
209 designated test, the test shall not be given; provided, if [the] such  
210 person refuses or is unable to submit to a blood test, the [police] peace  
211 officer shall designate the breath or urine test as the test to be taken.  
212 The peace officer shall make a notation upon the records of the police  
213 department that such officer informed such person that such person's  
214 safe boating certificate or certificate of personal watercraft operation  
215 would be suspended if such person refused to submit to such test or if  
216 such person submitted to such test and the results of such test

217 indicated that such person has an elevated blood alcohol content.

218 [(b) The provisions of this section shall not apply to any person  
219 whose physical condition is such that, according to competent medical  
220 advice, such test would be inadvisable.

221 (c) The state shall pay the reasonable charges of any physician who,  
222 at the request of a municipal police department, takes a blood sample  
223 for purposes of a test under this section.]

224 (c) If the person arrested refuses to submit to such test or analysis,  
225 or submits to such test or analysis commenced within two hours of the  
226 time of operation, and the results of such test or analysis indicate that  
227 at the time of the alleged offense such person had an elevated blood  
228 alcohol content, the peace officer shall immediately revoke the safe  
229 boating certificate or certificate of personal watercraft operation, if any,  
230 of such person for a twenty-four-hour period. The peace officer shall  
231 prepare a written report of the incident and shall mail the report  
232 together with any certificate taken into possession and a copy of the  
233 results of any chemical test or analysis, to the commissioner within  
234 three business days. The report shall be made on a form approved by  
235 the commissioner and shall be subscribed and sworn to under penalty  
236 of false statement as provided in section 53a-157b by the peace officer  
237 before whom such refusal was made or who administered or caused to  
238 be administered such test or analysis. If the person arrested refused to  
239 submit to such test or analysis, the report shall be endorsed by a third  
240 person who witnessed such refusal. The report shall set forth the  
241 grounds for the officer's belief that there was probable cause to arrest  
242 such person for operating such vessel while under the influence of  
243 intoxicating liquor or any drug, or both, or while such person has an  
244 elevated blood alcohol content and shall state that such person refused  
245 to submit to such test or analysis when requested by such peace officer  
246 or that such person submitted to such test or analysis, commenced  
247 within two hours of the time of operation, and the results of such test  
248 or analysis indicated that such person at the time of the alleged offense  
249 had an elevated blood alcohol content.



250     (d) If the person arrested submits to a blood or urine test at the  
251 request of the peace officer, and the specimen requires laboratory  
252 analysis in order to obtain the test results, and if the test results  
253 indicate that such person has an elevated blood alcohol content, the  
254 peace officer, immediately upon receipt of the test results, shall notify  
255 and submit to the commissioner the written report required pursuant  
256 to subsection (c) of this section.

257     (e) Upon receipt of such report, the commissioner shall suspend the  
258 safe boating certificate or certificate of personal watercraft operation of  
259 such person effective as of a date certain, such date shall be no later  
260 than thirty-five days after the date such person received notice of such  
261 person's arrest by the peace officer. Any person whose safe boating  
262 certificate or certificate of personal watercraft operation is suspended  
263 in accordance with this subsection shall be entitled to a hearing before  
264 the commissioner to be held prior to the effective date of the  
265 suspension. The commissioner shall send a suspension notice to such  
266 person informing such person that such person's safe boating  
267 certificate or certificate of personal watercraft operation is suspended  
268 and shall specify the date of such suspension and that such person is  
269 entitled to a hearing prior to the effective date of the suspension and  
270 may schedule such hearing by contacting the commissioner not later  
271 than seven days after the date of mailing of such suspension notice.

272     (f) If such person does not contact the department to schedule a  
273 hearing, the commissioner shall affirm the suspension contained in the  
274 suspension notice for the appropriate period specified in subsection (i)  
275 of this section.

276     (g) If such person contacts the department to schedule a hearing, the  
277 commissioner shall assign a date, time and place for the hearing, which  
278 date shall be prior to the effective date of the suspension. At the  
279 request of such person and upon a showing of good cause, the  
280 commissioner may grant one continuance for a period not to exceed  
281 thirty days. The hearing shall be limited to a determination of the  
282 following issues: (1) Whether the peace officer had probable cause to

283 arrest the person for operating the vessel while under the influence of  
284 intoxicating liquor or drugs, or both, or while such person has an  
285 elevated blood alcohol content; (2) whether such person was placed  
286 under arrest; (3) whether such person (A) refused to submit to such  
287 test or analysis, or (B) submitted to such test or analysis, commenced  
288 within two hours of the time of operation, and the results of such test  
289 or analysis indicated that at the time of the alleged offense that such  
290 person had an elevated blood alcohol content; and (4) whether such  
291 person was operating the vessel. At the hearing, the results of the test  
292 or analysis shall be sufficient to indicate the ratio of alcohol in the  
293 blood of such person at the time of operation, except that if the results  
294 of an additional test, administered pursuant to section 15-140r, as  
295 amended by this act, indicate that the ratio of alcohol in the blood of  
296 such person is ten-hundredths of one per cent or less of alcohol, by  
297 weight, and is higher than the results of the first test, evidence shall be  
298 presented that demonstrates that the test results and analysis thereof  
299 accurately indicate the blood alcohol content at the time of operation.  
300 The fees of any witness summoned to appear at the hearing shall be  
301 the same as provided in section 52-260.

302 (h) If, after such hearing, the commissioner finds on any one of said  
303 issues in the negative, the commissioner shall stay the safe boating  
304 certificate or certificate of personal watercraft operation suspension. If,  
305 after such hearing, the commissioner does not find on any one of said  
306 issues in the negative or if such person fails to appear at such hearing,  
307 the commissioner shall affirm the suspension contained in the  
308 suspension notice for the appropriate period specified in subsection (i)  
309 of this section. The commissioner shall render a decision at the  
310 conclusion of such hearing or send a notice of the decision by certified  
311 mail to such person not later than thirty-five days from the date of  
312 notice of such person's arrest by the peace officer or, if a continuance is  
313 granted, not later than sixty-five days from the date such person  
314 received notice of such person's arrest by the peace officer. The notice  
315 of such decision sent by certified mail to the address of such person as  
316 shown by the records of the commissioner shall be sufficient notice to

317 such person that such person's safe boating certificate or certificate of  
318 personal watercraft operation is suspended or the suspension is  
319 stayed. Unless a continuance of the hearing is granted pursuant to  
320 subsection (g) of this section, if the commissioner fails to render a  
321 decision within thirty-five days from the date that such person  
322 received notice of such person's arrest by the peace officer, the  
323 commissioner shall not suspend such person's safe boating certificate  
324 or certificate of personal watercraft operation.

325 (i) The commissioner shall suspend the operator's safe boating  
326 certificate or certificate of personal watercraft operation of a person  
327 who does not contact the department to schedule a hearing under  
328 subsection (e) of this section, who fails to appear at such hearing, or  
329 against whom, after a hearing, the commissioner holds pursuant to  
330 subsection (g) of this section. Such suspension shall be as of the  
331 effective date contained in the suspension notice or the date the  
332 commissioner renders a decision, whichever is later, for a period of: (1)  
333 (A) Except as provided in subparagraph (B) of this subdivision, ninety  
334 days if such person submitted to a test or analysis and the results of  
335 such test or analysis indicated that at the time of the alleged offense  
336 that such person had an elevated blood alcohol content, or (B) one  
337 hundred twenty days if such person submitted to a test or analysis and  
338 the results of such test or analysis indicated that the ratio of alcohol in  
339 the blood of such person was sixteen-hundredths of one per cent or  
340 more of alcohol, by weight, or (C) six months if such person refused to  
341 submit to such test or analysis; (2) if such person has previously had  
342 such person's safe boating certificate or certificate of personal  
343 watercraft operation suspended under this section, (A) except as  
344 provided in subparagraph (B) of this subdivision, nine months if such  
345 person submitted to a test or analysis and the results of such test or  
346 analysis indicated that at the time of the alleged offense that such  
347 person had an elevated blood alcohol content, (B) ten months if such  
348 person submitted to a test or analysis and the results of such test or  
349 analysis indicated that the ratio of alcohol in the blood of such person  
350 was sixteen-hundredths of one per cent or more of alcohol, by weight,

351 and (C) one year if such person refused to submit to such test or  
352 analysis; and (3) if such person has two or more times previously had  
353 such person's safe boating certificate or certificate of personal  
354 watercraft operation suspended under this section, (A) except as  
355 provided in subparagraph (B) of this subdivision, two years if such  
356 person submitted to a test or analysis and the results of such test or  
357 analysis indicated that at the time of the alleged offense that such  
358 person had an elevated blood alcohol content, (B) two and one-half  
359 years if such person submitted to a test or analysis and the results of  
360 such test or analysis indicated that the ratio of alcohol in the blood of  
361 such person was sixteen-hundredths of one per cent or more of  
362 alcohol, by weight, and (C) three years if such person refused to  
363 submit to such test or analysis.

364 (j) Notwithstanding the provisions of subsections (b) to (i),  
365 inclusive, of this section, any peace officer who obtains the results of a  
366 chemical analysis of a blood sample taken from an operator of a vessel  
367 involved in an accident who suffered or allegedly suffered physical  
368 injury in such accident shall notify the commissioner and submit to the  
369 commissioner a written report if such results indicate that at the time  
370 of the alleged offense such person had an elevated blood alcohol  
371 content, and if such person was arrested for a violation of subsection  
372 (d) of section 15-133, as amended by this act, and sections 15-140l, as  
373 amended by this act, and 15-140n, as amended by this act, in  
374 connection with such accident. The report shall be made on a form  
375 approved by the commissioner containing such information as the  
376 commissioner prescribes and shall be subscribed and sworn under  
377 penalty of false statement, as provided in section 53a-157b, by the  
378 peace officer. The commissioner shall, after notice and an opportunity  
379 for hearing, which shall be conducted in accordance with chapter 54,  
380 suspend the safe boating certificate or certificate of personal watercraft  
381 operation of such person for a period of up to ninety days, or, if such  
382 person has previously had such person's operating privilege  
383 suspended under this section, for a period up to one year. Each  
384 hearing conducted under this section shall be limited to a

determination of the following issues: (1) Whether the peace officer had probable cause to arrest the person for operating a vessel or engaging in water skiing while under the influence of intoxicating liquor or drugs, or both, or while such person has an elevated blood alcohol content; (2) whether such person was placed under arrest; (3) whether such person was operating the vessel; (4) whether the results of the analysis of the blood of such person indicate that such person had an elevated blood alcohol content; and (5) whether the blood sample was obtained in accordance with conditions for admissibility as set forth in subsection (b) of section 15-140r, as amended by this act. If, after such hearing, the commissioner finds on any issue in the negative, the commissioner shall not impose a suspension. The fees of any witness summoned to appear at the hearing shall be the same as provided by the general statutes for witnesses in criminal cases.

(k) The provisions of this section shall apply with the same effect to the refusal by any person to submit to an additional chemical test as provided in subdivision (5) of subsection (a) of section 15-140r, as amended by this act.

(l) The provisions of this section do not apply to any person whose physical condition is such that, according to competent medical advice, such test would be inadvisable.

(m) The state shall pay the reasonable charges of any physician who, at the request of a municipal police department, takes a blood sample for purposes of a test under the provisions of this section.

(n) For the purposes of this section, "elevated blood alcohol content" means: (1) A ratio of alcohol in the blood of such person that is eight-hundredths of one per cent or more of alcohol, by weight, or (2) if such person is under twenty-one years of age, a ratio of alcohol in the blood of such person that is two-hundredths of one per cent or more of alcohol, by weight.

(o) The commissioner may adopt regulations, in accordance with chapter 54, to implement the provisions of this section.

417 Sec. 6. Section 15-140r of the general statutes is repealed and the  
418 following is substituted in lieu thereof (*Effective October 1, 2003*):

419 [(a) In any criminal prosecution for violation of section 15-140l or  
420 15-140n, subsection (a) of section 15-133 or]

421 (a) Except as provided in subsection (d) of this section, in any  
422 criminal prosecution for the violation of subsection (d) of section 15-  
423 133, as amended by this act, sections 15-140l and 15-140n, as amended  
424 by this act, and subsection (b) of section 53-206d, evidence respecting  
425 the amount of alcohol or drug in the defendant's blood or urine at the  
426 time of the alleged offense, as shown by a chemical analysis of the  
427 defendant's breath, blood or urine shall be admissible and competent  
428 provided: (1) The defendant was afforded a reasonable opportunity to  
429 telephone an attorney prior to the performance of the test and  
430 consented to the taking of the test upon which such analysis is made;  
431 (2) a true copy of the report of the test result was mailed to or  
432 personally delivered to the defendant within twenty-four hours or by  
433 the end of the next regular business day, after such result was known,  
434 whichever is later; (3) the test was performed by or at the direction of a  
435 certified law enforcement officer according to methods and with  
436 equipment approved by the Department of Public [Health] Safety and  
437 was performed. [by a person certified or recertified for such purpose  
438 by said department or recertified by persons certified as instructors by  
439 the Commissioner of Public Health.] If a blood test is taken, it shall be  
440 on a blood sample taken by a person licensed to practice medicine and  
441 surgery in this state, a qualified laboratory technician, an emergency  
442 medical technician II or a registered nurse [; (4)] in accordance with the  
443 regulations adopted under subsection (b) of this section; (4) the device  
444 used for such test was checked for accuracy [at the beginning of each  
445 workday and no later than the end of each workday by a person  
446 certified by the Department of Public Health; (5)] in accordance with  
447 the regulations adopted under subsection (b) of this section; (5) an  
448 additional chemical test of the same type was performed [and the  
449 device was checked for accuracy by a person certified or recertified by  
450 the Department of Public Health,] at least thirty minutes after the

451 initial test was performed or, if requested by the peace officer for  
452 reasonable cause, an additional chemical test of a different type was  
453 performed to detect the presence of a drug or drugs other than or in  
454 addition to alcohol, provided the results of the initial test shall not be  
455 inadmissible under this subsection if reasonable efforts were made to  
456 have such additional test performed in accordance with the conditions  
457 set forth in this subsection and such additional test was not performed  
458 or was not performed within a reasonable time, or the results of such  
459 additional test are not admissible for failure to meet a condition set  
460 forth in this subsection; and (6) evidence is presented [which  
461 demonstrates that the test results and the analysis thereof accurately  
462 reflect] that the test was commenced within two hours of operation of  
463 the vessel. In any prosecution under this section it shall be a rebuttable  
464 presumption that the results of such chemical analysis establish the  
465 ratio of alcohol in the blood of the defendant at the time of the alleged  
466 offense, except that if the results of the additional test indicate that the  
467 ratio of alcohol in the blood of such defendant is ten-hundredths of one  
468 per cent or less of alcohol, by weight, and is higher than the results of  
469 the first test, evidence shall be presented that demonstrates that the  
470 test results and the analysis thereof accurately indicate the blood  
471 alcohol content at the time of the alleged offense.

472 (b) The Commissioner of Public [Health] Safety shall ascertain the  
473 reliability of each method and type of device offered for chemical  
474 testing [purposes] and analysis of blood, of breath and of urine and  
475 certify those methods and types which [he] said commissioner finds  
476 suitable for use in testing and analysis of blood, [testing] breath and  
477 [testing] urine, respectively, in this state. [He] The Commissioner of  
478 Public Safety, after consultation with the Commissioner of Public  
479 Health, shall adopt regulations governing the conduct of chemical  
480 tests, the operation and use of chemical test devices and the training [,  
481 certification and annual recertification of operators of such devices as  
482 he] and certification of operators of such devices and the drawing or  
483 obtaining of blood, breath or urine samples as said commissioner finds  
484 necessary to protect the health and safety of persons who submit to

485 chemical tests and to insure reasonable accuracy in testing results.  
486 Such regulations shall not require recertification of a peace officer  
487 solely because such officer terminates such officer's employment with  
488 the law enforcement agency for which certification was originally  
489 issued and commences employment with another such agency.

490 (c) If a person is charged with a violation of subsection (d) of section  
491 15-133, as amended by this act, the charge may not be reduced, nolle  
492 or dismissed unless the prosecuting authority states in open court [his]  
493 such prosecutor's reasons for the reduction, nolle or dismissal.

494 (d) In any criminal prosecution for a violation of subsection (d) of  
495 section 15-133 or section 15-140l or 15-140n, as amended by this act,  
496 evidence that the defendant refused to submit to a blood, breath or  
497 urine test requested in accordance with section 15-140q, as amended  
498 by this act, shall be admissible provided the requirements of  
499 subsection (a) of said section have been satisfied. If a case involving a  
500 violation of subsection (d) of section 15-133 or section 15-140l or 15-  
501 140n, as amended by this act, is tried to a jury, the court shall instruct  
502 the jury as to any inference that may or may not be drawn from the  
503 defendant's refusal to submit to a blood, breath or urine test.

504 Sec. 7. Section 15-154 of the general statutes is repealed and the  
505 following is substituted in lieu thereof (*Effective October 1, 2003*):

506 (a) Any harbor master, deputy harbor master, conservation officer,  
507 special conservation officer or state police officer and any municipal  
508 police officer, any special police officer appointed under sections 29-18  
509 and 29-19, [or members of the volunteer police auxiliary force  
510 established under section 29-22,] any town marine officers appointed  
511 under section 15-154a and certified by the commissioner for marine  
512 police duty and any lake patrolman appointed under section 7-151b, as  
513 amended, may enforce the provisions of this chapter and chapter 446k.  
514 Sections 15-133, 15-140l and 15-140n, as amended by this act, may be  
515 enforced by either a state police officer, municipal police officer,  
516 municipal police or town marine officer appointed under section 15-



154a and certified by the commissioner for marine police duty, or conservation officer, special conservation officer, any special police officer appointed under sections 29-18 and 29-19 or any lake patrolmen appointed under section 7-151b, as amended, or harbor master or deputy harbor master, provided such harbor master or deputy harbor master possesses accurate and Valid Police Officer Standards and Training Council Certification. In the enforcement of this chapter, such officer may arrest, without previous complaint and warrant, any person who fails to comply with the provisions of this chapter. Failure to appear in court pursuant to such arrest, unless excused by the court or the state's attorney or assistant state's attorney, shall constitute sufficient cause for the suspension by the Commissioner of Motor Vehicles of the boat registration of the boat involved for not more than thirty days or until the matter is resolved by the court, whichever is sooner.

(b) When engaged in the enforcement of this chapter and chapter 446k such officer shall have the authority to stop and board any vessel which is under way or which is moored on the waters of this state for the purposes of (1) examining decals, certificates and other documents, (2) inspecting safety equipment and waste disposal systems, (3) determining if the operation of such vessel exceeds the noise levels established in subsection (b) of section 15-129, (4) searching when [he] such officer has probable cause to believe that any provision of any law of this state or any rule or regulation of the Department of Environmental Protection relating to boating or water pollution has been violated, (5) determining compliance with [subsection (d)] sections 15-140l and 15-140n and subsections (d) and (e) of section 15-133, as amended by this act, when [he] such authorized officer has probable cause to believe said section or subsection has been violated, and (6) making arrests. No person operating a vessel shall refuse to stop [his] such vessel or, if sea conditions make stopping in that area unsafe, refuse to take [his] such vessel to a designated area after being requested or signalled to do so by [an authorized law enforcement] such officer. Any person operating a vessel who refuses to stop or

551 refuses to take [his] such vessel to the designated area shall have  
552 committed an infraction. Any person, when signalled to stop by [an]  
553 such officer in a law enforcement vessel using an audible signal device  
554 or flashing blue lights, who operates [his] such vessel in disregard of  
555 such signal so as to (A) interfere with or endanger the operation of the  
556 law enforcement vessel or any other vessel, (B) endanger or cause  
557 damage to property or person, or (C) increase speed in an attempt to  
558 escape or elude such law enforcement officer shall be fined not less  
559 than one hundred dollars nor more than five hundred dollars for a first  
560 offense and for any subsequent offense shall be fined not less than five  
561 hundred dollars nor more than one thousand dollars. Proof of the  
562 registration number of the vessel shall be prima facie evidence in any  
563 prosecution that the owner was the operator.

564 (c) The Commissioner of Environmental Protection shall publish an  
565 enforcement manual, conduct training and educational sessions, serve  
566 as liaison between the enforcement groups and the Superior Court and  
567 shall be generally responsible for the overall coordination of  
568 enforcement.

569 Sec. 8. Subsection (a) of section 15-140e of the general statutes is  
570 repealed and the following is substituted in lieu thereof (*Effective*  
571 *October 1, 2003*):

572 (a) On and after the following dates, no resident of the state, person  
573 owning real property in the state or person owning a vessel in the state  
574 shall operate on the waters of the state a vessel which is required to be  
575 registered or numbered pursuant to this chapter unless such person  
576 has a valid vessel operator license by the United States Coast Guard or  
577 has obtained a safe boating certificate issued by the Commissioner of  
578 Environmental Protection: For operators who are less than twenty  
579 years of age, June 23, 1993; for operators who are less than twenty-five  
580 years of age, October 1, 1993; for operators who are less than thirty  
581 years of age, October 1, 1994; for operators who are less than thirty-five  
582 years of age, October 1, 1995; for operators who are less than forty  
583 years of age, October 1, 1996; and for all operators forty years of age or

584 older, October 1, 1997. Notwithstanding the provisions of this section,  
585 the commissioner may issue a certificate to a person who has  
586 successfully completed a course in safe boating operation approved by  
587 the commissioner before the date such person is required to take the  
588 exam under this section. A safe boating certificate [shall be  
589 nonrevocable] may be suspended or revoked, pursuant to section 15-  
590 133, 15-140l or 15-140n, as amended by this act, and shall be valid for  
591 the life of the person to whom it is issued unless otherwise suspended  
592 or revoked.

593 Sec. 9. Section 15-133c of the general statutes is repealed and the  
594 following is substituted in lieu thereof (*Effective October 1, 2003*):

595 (a) On or before January 1, 1991, any person convicted of more than  
596 one violation of section 15-133 or 15-134 within any two-year period  
597 may not operate a motorboat powered by a motor in excess of five  
598 horsepower on the waters of the state for recreational purposes  
599 without first obtaining a boating safety certificate from the  
600 commissioner evidencing successful completion of a course in safe  
601 boat handling approved by the commissioner. The commissioner shall  
602 adopt regulations in accordance with the provisions of chapter 54  
603 establishing requirements for the issuance of boating safety certificates  
604 and the content of safe boat handling courses which shall include but  
605 not be limited to instruction in boat handling and navigation. The  
606 commissioner may designate [as his] an agent for giving such course  
607 and issuing such certificates: The United States Coast Guard Auxiliary,  
608 the United States Power Squadron, or any other person or organization  
609 [he] the commissioner deems qualified to act in such capacity.

610 (b) A certified copy of a conviction for a violation of section 15-133,  
611 as amended by this act, [or] 15-134, 15-140l, as amended by this act, or  
612 15-140n, as amended by this act, shall be sent within thirty days of  
613 conviction to the Commissioner of Environmental Protection without  
614 charge by the clerk of the court wherein such conviction has been had.

615 Sec. 10. Subsection (a) of section 14-227f of the general statutes is

616 repealed and the following is substituted in lieu thereof (*Effective*  
617 *October 1, 2003*):

618 (a) Any person whose motor vehicle operator's license or  
619 nonresident operating privilege is suspended under subsection (h) of  
620 section 14-227a for a conviction of a second or subsequent violation of  
621 subsection (a) of said section or under section 14-227b for a second or  
622 subsequent time shall participate in a treatment program approved by  
623 the Commissioner of Motor Vehicles. The commissioner shall not  
624 reinstate the operator's license or nonresident operating privilege of  
625 any such person until such person submits evidence to the  
626 commissioner that [he] such person has satisfactorily completed the  
627 treatment program. Any person whose certificate is suspended or  
628 revoked pursuant to sections 15-133, 15-140l or 15-140n, as amended  
629 by this act, shall participate in such treatment program.

630 Sec. 11. Subsection (a) of section 54-56g of the general statutes is  
631 repealed and the following is substituted in lieu thereof (*Effective*  
632 *October 1, 2003*):

633 (a) There shall be a pretrial alcohol education system for persons  
634 charged with a violation of section 14-227a and the provisions of  
635 sections 15-133, 15-140l and 15-140n, as amended by this act. Upon  
636 application by any such person for participation in such system and  
637 payment to the court of an application fee of fifty dollars, the court  
638 shall, but only as to the public, order the court file sealed, provided  
639 such person states under oath, in open court or before any person  
640 designated by the clerk and duly authorized to administer oaths,  
641 under penalties of perjury that such person has never had such system  
642 invoked in such person's behalf and that such person has not been  
643 convicted of a violation of section 53a-56b or 53a-60d, a violation of  
644 subsection (a) of section 14-227a before or after October 1, 1981, or a  
645 violation of subdivision (1) or (2) of subsection (a) of section 14-227a on  
646 or after October 1, 1985, and that such person has not been convicted in  
647 any other state at any time of an offense the essential elements of  
648 which are substantially the same as section 53a-56b or 53a-60d or

649 subdivision (1) or (2) of subsection (a) of section 14-227a. Unless good  
650 cause is shown, a person shall be ineligible for participation in such  
651 pretrial alcohol education system if such person's alleged violation of  
652 section 14-227a caused the serious physical injury, as defined in section  
653 53a-3, of another person. The fee imposed by this subsection shall be  
654 credited to the Criminal Injuries Compensation Fund established by  
655 section 54-215.

656 Sec. 12. Section 15-140j of the general statutes is amended by adding  
657 subsection (h) as follows (*Effective October 1, 2003*):

658 (NEW) (h) A certificate of personal watercraft operation may be  
659 suspended or revoked in accordance with the provisions of this act.

660 Sec. 13. Subsection (b) of section 54-56g of the general statutes is  
661 repealed and the following is substituted in lieu thereof (*Effective*  
662 *October 1, 2003*):

663 (b) The court, after consideration of the recommendation of the  
664 state's attorney, assistant state's attorney or deputy assistant state's  
665 attorney in charge of the case, may, in its discretion, grant such  
666 application. If the court grants such application, it shall refer such  
667 person to the Court Support Services Division for assessment and  
668 confirmation of the eligibility of the applicant and to the Department  
669 of Mental Health and Addiction Services for evaluation. The Court  
670 Support Services Division, in making its assessment and confirmation,  
671 may rely on the representations made by the applicant under oath in  
672 open court with respect to convictions in other states of offenses  
673 specified in subsection (a) of this section. Upon confirmation of  
674 eligibility and receipt of the evaluation report, the defendant shall be  
675 referred to the Department of Mental Health and Addiction Services  
676 by the Court Support Services Division for placement in an  
677 appropriate alcohol intervention program for one year. Any person  
678 who enters the system shall agree: (1) To the tolling of the statute of  
679 limitations with respect to such crime, (2) to a waiver of such person's  
680 right to a speedy trial, (3) to complete ten or fifteen counseling sessions

681 in an alcohol intervention program pursuant to this section dependent  
682 upon the evaluation report and the court order, (4) to accept placement  
683 in a treatment program upon recommendation of a provider under  
684 contract with the Department of Mental Health and Addiction Services  
685 pursuant to subsection (d) of this section or placement in a treatment  
686 program which has standards substantially similar to, or higher than, a  
687 program of a provider under contract with the Department of Mental  
688 Health and Addiction Services if the Court Support Services Division  
689 deems it appropriate, and (5) if ordered by the court, to participate in  
690 at least one victim impact panel. The suspension of the motor vehicle  
691 operator's license of any such person pursuant to section 14-227b shall  
692 be effective during the period such person is participating in such  
693 program, provided such person shall have the option of not  
694 commencing the participation in such program until the period of such  
695 suspension is completed. If the Court Support Services Division  
696 informs the court that the defendant is ineligible for the system and the  
697 court makes a determination of ineligibility or if the program provider  
698 certifies to the court that the defendant did not successfully complete  
699 the assigned program or is no longer amenable to treatment, the court  
700 shall order the court file to be unsealed, enter a plea of not guilty for  
701 such defendant and immediately place the case on the trial list. If such  
702 defendant satisfactorily completes the assigned program, such  
703 defendant may apply for dismissal of the charges against such  
704 defendant and the court, on reviewing the record of the defendant's  
705 participation in such program submitted by the Court Support  
706 Services Division and on finding such satisfactory completion, shall  
707 dismiss the charges. If the defendant does not apply for dismissal of  
708 the charges against such defendant after satisfactorily completing the  
709 assigned program the court, upon receipt of the record of the  
710 defendant's participation in such program submitted by the Court  
711 Support Services Division, may on its own motion make a finding of  
712 such satisfactory completion and dismiss the charges. Upon motion of  
713 the defendant and a showing of good cause, the court may extend the  
714 one-year placement period for a reasonable period for the defendant to  
715 complete the assigned program. A record of participation in such

716 program shall be retained by the Court Support Services Division for a  
717 period of seven years from the date of application. The Court Support  
718 Services Division shall transmit to the Department of Motor Vehicles a  
719 record of participation in such program for each person who  
720 satisfactorily completes such program. The Department of Motor  
721 Vehicles shall maintain for a period of seven years the record of a  
722 person's participation in such program as part of such person's driving  
723 record. The Court Support Services Division shall transmit to the  
724 Department of Environmental Protection the record of participation of  
725 any person who satisfactorily completes such program who has been  
726 charged with a violation of the provisions of section 15-133, 15-140l or  
727 15-140n, as amended by this act. The Department of Environmental  
728 Protection shall maintain for a period of seven years the record of a  
729 person's participation in such program as a part of such person's  
730 boater certification record.

731 Sec. 14. Subsection (h) of section 15-144 of the general statutes is  
732 repealed and the following is substituted in lieu thereof (*Effective*  
733 *October 1, 2003*):

734 (h) (1) Any person who operates or any owner who permits the  
735 operation of a vessel on the waters of this state which has not been  
736 numbered or registered in accordance with the provisions of this  
737 chapter and any other applicable section of the general statutes, shall  
738 have committed a violation and shall be fined not less than twenty-five  
739 nor more than two hundred dollars for the first offense and for each  
740 subsequent offense shall be fined not less than two hundred dollars  
741 nor more than five hundred dollars. (2) No person shall use any vessel  
742 registration or registration decals that have been issued to another  
743 person pursuant to sections 15-142 to 15-144, inclusive. No person shall  
744 use a vessel registration or registration decals on any vessel other than  
745 the vessel for which such registration number or registration decals  
746 have been issued. Any person who violates any provision of this  
747 subdivision shall be fined not more than one hundred dollars or  
748 imprisoned not more than thirty days or both. (3) Any officer  
749 empowered to enforce the provisions of this chapter and any other

750 applicable section of the general statutes who finds a vessel which is  
751 not numbered or registered in accordance with the provisions of this  
752 chapter and such discovery is subsequent to a violation of this chapter  
753 may make application to the court for a warrant to seize such vessel  
754 and take it into custody pending proof of payment of proper  
755 numbering or registration fees. No officer shall be liable for any act  
756 performed under the provisions of this subsection.

757 Sec. 15. Subsection (f) of section 15-134 of the general statutes is  
758 repealed and the following is substituted in lieu thereof (*Effective*  
759 *October 1, 2003*):

760 (f) (1) No individual, municipality, association or corporation shall  
761 place or cause to be placed on the waters of this state any marked  
762 course or jump ramp for use by any water skier or vessel without  
763 written authorization of the commissioner except on lakes or ponds  
764 owned by, and whose access is entirely under the control of, private  
765 landowners or lessees who all agree to the establishment of such  
766 course or ramp. On and after October 1, 1993, no new authorization  
767 shall be granted on any body of water with a surface area less than one  
768 hundred acres. Application for authorization shall be made on forms  
769 provided by the commissioner and shall be accompanied by: (A) A  
770 detailed map showing the proposed location of such marked course or  
771 jump ramp, (B) a detailed diagram of the proposed course markers or  
772 jump ramp, and (C) a detailed statement addressing the safety and  
773 environmental impact of such proposal.

774 (2) The commissioner shall hold [a public hearing] an informational  
775 meeting in the town or one of the towns in which authorization is  
776 sought, [to place such marked course or jump ramp,] giving all towns  
777 involved and all interested persons an opportunity to present their  
778 views regarding the proposed mark course or jump ramp. Any such  
779 informational meeting shall not be deemed to be a hearing under the  
780 provisions of chapter 54. Prior to issuing or denying such  
781 authorization the commissioner shall consider: (A) The completeness,  
782 accuracy and detail of the application, (B) public safety, (C) any



783 environmental impacts directly related to the proposed marked course  
784 or jump ramp, and (D) the possible conflicts with other water uses.

785 (3) Any authorization issued by the commissioner pursuant to this  
786 subsection may contain such conditions as the commissioner deems  
787 necessary to safeguard public safety, welfare or the environment.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>
Sec. 8	<i>October 1, 2003</i>
Sec. 9	<i>October 1, 2003</i>
Sec. 10	<i>October 1, 2003</i>
Sec. 11	<i>October 1, 2003</i>
Sec. 12	<i>October 1, 2003</i>
Sec. 13	<i>October 1, 2003</i>
Sec. 14	<i>October 1, 2003</i>
Sec. 15	<i>October 1, 2003</i>

**ENV**

**Joint Favorable Subst. C/R**

**JUD**